

OPEN GOVERNMENT: THE BROWN ACT AND THE PUBLIC RECORDS ACT

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BROWN ACT (Gov. Code, § 54950, et seq.)

Basic Premise: All meetings of the legislative body of a local agency shall be open and public, with limited exceptions.



Meeting:

- Majority of body
- Same time and location
- To hear, discuss or deliberate
- On item within the body's jurisdiction



Legislative Body:

- Elected Boards / Councils
- Commissions / Advisory Bodies
- Standing Committees

Open and Public

- Advance Notice
- Meeting Location
- Copies of Written Materials



Exceptions: Closed Sessions

- Litigation
- Property Negotiations
- Labor Negotiations
- Employee Evaluations, Discipline or Dismissal



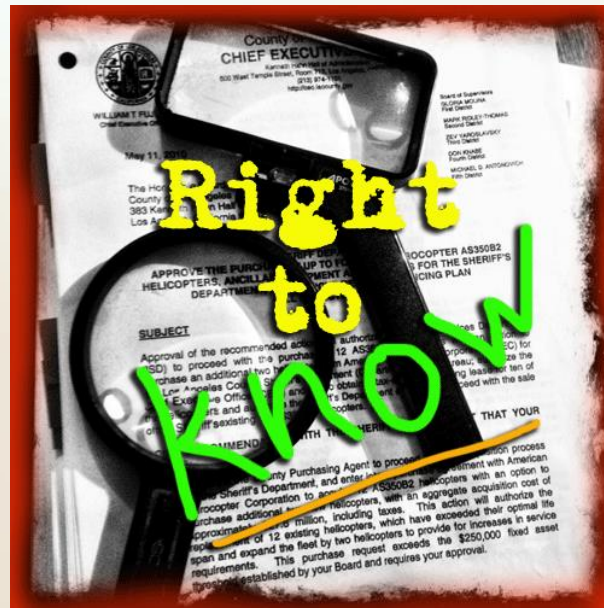
Emerging Issues

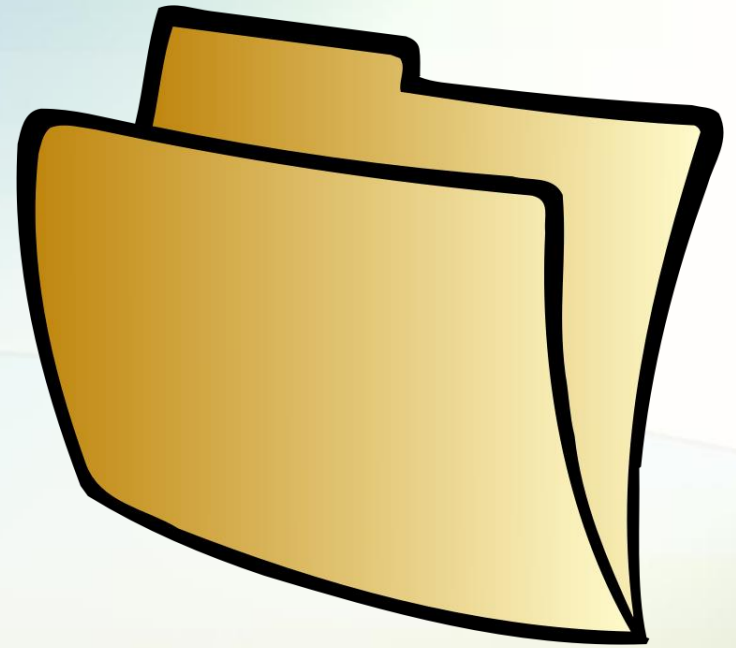
- Technology & Meetings
- Little Hoover Commission Report
 - 54952.2(b): "A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body."

Public Records Act (Gov. Code, § 6250)

Basic Premise:

The people have a right to
access information about
the public's business.





Public Record:

“[A]ny writing containing information relating to the conduct of the public’s business prepared, owned, used or retained by any state or local agency, regardless of form or characteristics.”

Public's Business

Purely personal records not “public”

BUT—Narrow construction: If you do not want it in the paper, do not put it in writing.



Writing

- Written, printed, photographic
 - Recordings
 - Electronic

Prepared, Owned, Used or Retained

- Outside contractors or servers?

Exemptions: Narrowly Construed



- Pending Litigation
- Some personnel records
- Drafts

Exemptions, continued:

Statutory Privileges and Exemptions

- Attorney-Client / Work Product Privileges
- Medical Privacy
- Trademark
- Elections
- Evidence Code



Public Interest Exemption: 6255

The public interest served by not disclosing the record clearly outweighs the public interest served by disclosure.



Emerging Issues

- Private Devices
 - *City of San Jose v. Superior Court (Smith)*
- Privileges
 - *Ardon v. City of Los Angeles*
 - *ACLU v. County of Los Angeles*
- Open Data



Questions?